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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARCUS WEBB,

11 CIV 7517 (JSR)

Plaintiff

-against-

**DECLARATION OF
TOM J. FERBER IN SUPPORT
OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

SYLVESTER STALLONE, et al.,

Defendants.
-----X

TOM J. FERBER declares as follows:

1. I am a member of Pryor Cashman LLP, counsel for all of the defendants in the above-referenced matter. I submit this declaration for the purpose of putting before the Court certain pleadings, testimony and exhibits to which reference is made in the accompanying Statement Pursuant to Local Rule 56.1 and in the Memorandum of Law in Support of Defendants' Motion for Summary Judgment.
2. Annexed hereto as Exhibit "A" is a copy of the Second Amended Complaint. The original Complaint was filed on October 24, 2011.

3. Annexed hereto as Exhibit "B" is a copy of the Answer to the Second Amended Complaint. A DVD of the motion picture "The Expendables," which is the subject of this action, is Exhibit B to the Answer.

4. Exhibit C to the Answer includes the "3rd Studio Draft" of a screenplay tentatively entitled "Barrow," by defendant David E. Callaham. That screenplay, a Warner Bros. memorandum dated January 30, 2006, and the Declaration of Wayne M. Smith, Esq. of Warner Bros., all of which are set forth at Exhibit C to the Answer, were produced by Warner Bros. in response to a subpoena.

5. Annexed as Exhibit "C" hereto are excerpts from the deposition of plaintiff Marcus Webb ("Webb").

6. Annexed hereto as Exhibit "D" is Exhibit "CC" from Webb's deposition.

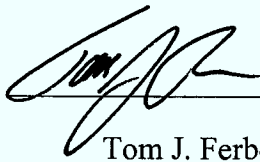
7. Annexed hereto as Exhibit "E" is Exhibit "FF" from Webb's deposition.

8. Annexed hereto as Exhibit "F" is Exhibit "GG" from Webb's deposition.

9. Annexed hereto as Exhibit "G" is a copy of Webb's responses to defendants' interrogatories.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 15, 2012.


Tom J. Ferber